

MEMORANDUM

To: Parties to PSB Docket No. 7466 (EEU Structure Investigation)

From: Susan M. Hudson, Clerk of the Board

Re: Change to Schedule – Prefiled Sur-Rebuttal Testimony Due August 28, 2009

Date: August 20, 2009

On August 14, 2009, the Department of Public Service ("Department") filed a request to submit sur-rebuttal testimony in the above-referenced proceeding. The Department states that the filing of sur-rebuttal testimony will clarify issues for the upcoming technical hearings and enable the Board and parties to more efficiently address the issues of dispute in this proceeding.

The Department's filing states that its request is consented to by: Associated Industries of Vermont; City of Burlington Electric Department; Central Vermont Public Service Corporation; Conservation Law Foundation ("CLF"); Green Mountain Power Corporation; International Business Machines Corporation; Vermont Energy Investment Corporation ("VEIC"); Vermont Electric Power Company, Inc.; Washington Electric Cooperative, Inc.; and Vermont Marble Power Division of OMYA. The Department was unable to contact the Group of Municipal Electric Utilities. The Department states that the remaining parties to the docket do not object to the request so long as the following conditions apply:

- that all parties have the right to file sur-rebuttal testimony;
- that the testimony address only issues raised in the rebuttal testimony;
- that the testimony be brief;
- that the testimony not cause any delay in the scheduled hearing; and
- VEIC requests the opportunity and adequate time to reply to any sur-rebuttal testimony in advance of the scheduled hearing.

On August 18, 2009, CLF filed a clarification to its position regarding the Department's August 7 request. CLF states that it does not object to parties filing sur-rebuttal testimony provided that it is limited to addressing or responding to new matters raised in rebuttal testimony. CLF also states that it reserves the right to object to sur-rebuttal testimony if it does not respond to new matters.

The Public Service Board ("Board") has asked me to inform you that any party may file prefiled sur-rebuttal testimony; the deadline for filing such testimony in this proceeding shall be August 28, 2009. Such testimony should only address new issues raised in prefiled rebuttal testimony.

With regard to VEIC's request for time to reply to any sur-rebuttal testimony, any party may file a motion with such request after reviewing the sur-rebuttal testimony. Any such motion must provide sufficient justification regarding the need for a written reply. The Board will rule on any requests for additional testimony at that time.

A key consideration for the Board in granting the request to file sur-rebuttal testimony was the fact that the request would not alter the scheduled hearing dates or delay the resolution of this proceeding. The schedule for the remainder of this proceeding shall remain as previously established, with technical hearings on September 15-17, 2009.